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**TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA**

WEDNESDAY, SEPTEMBER 21, 2016

Regular Meeting 6:00 p.m.

Town Council Chambers
14955 Dale Evans Parkway

PLANNING COMMISSION MEMBERS

Doug Qualls, Chairman
Mark Shoup, Vice-Chairman
Jason Lamoreaux, Commissioner
Bruce Kallen, Commissioner
B. R. "Bob" Tinsley, Commissioner

PLANNING DIVISION OFFICE: (760) 240-7000 Ext. 7200
www.AVPlanning.org

Monday - Thursday 7:30 a.m. to 5:30 p.m.
Alternating Fridays 7:30 a.m. to 4:30 p.m.



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**TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA
REGULAR MEETING
WEDNESDAY September 21, 2016 – 6:00 P.M.**

PUBLIC PARTICIPATION IS INVITED. Planning Commission meetings are held in the Town Council Chambers located at 14955 Dale Evans Parkway, Apple Valley, California. If you wish to be heard on any item on the agenda during the Commission's consideration of that item, or earlier if determined by the Commission, please so indicate by filling out a "REQUEST TO SPEAK" form at the Commission meeting. Place the request in the Speaker Request Box on the table near the Secretary, or hand it to the Secretary at the Commission meeting. (G.C. 54954.3 {a}).

Materials related to an item on this agenda, submitted to the Commission after distribution of the agenda packet, are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at www.applevalley.org subject to staff's ability to post the documents before the meeting.

The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office, at (760) 240-7000, two working days prior to the scheduled meeting for any requests for reasonable accommodations.

REGULAR MEETING

The Regular meeting is open to the public and will begin at 6:00 p.m.

CALL TO ORDER

ROLL CALL

Commissioners: Lamoreaux _____; Kallen _____; Tinsley _____
Vice-Chairman Shoup _____; and Chairman Qualls _____

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

1. Minutes for the Regular Meeting of August 3, 2016.

PUBLIC HEARING ITEMS

2. **Tentative Tract Map No. 17271, Time Extension No 1 (Continued from August 17, 2016).** This is a request for a time extension of a previously approved subdivision of (73) acres into forty-five (45) single-family lots and two (2) open space lots. The lots will range from 18,004 to 51,747 square feet in size. The project is located within the Single Family Residential (R-SF) and Open Space Conservation (OS-C) zoning designations

Applicant: Mr. Beau Cooper, representing Tao & Kamana 43, LLC
Location: The project site is located at the northern terminus of Tao Road, between Menahka Lane and Kasson Road and bounded to the north by the logical extension of Waalew Road; APN 0473-011-35.
Project Planner: Pam Cupp, Associate Planner
Recommendation: Approval

PUBLIC COMMENTS

Anyone wishing to address an item not on the agenda, or an item that is not scheduled for a public hearing at this meeting, may do so at this time. California State Law does not allow the Commission to act on items not on the agenda, except in very limited circumstances. Your concerns may be referred to staff or placed on a future agenda.

PLANNING COMMISSION COMMENTS

STAFF COMMENTS

OTHER BUSINESS

3. Carol Miller, Principal Planner, will present the annual review of Development Permit projects that have been administratively approved. This report is available for public review at the Planning Division located at 14955 Dale Evans Parkway, Apple Valley, CA. No action is required – to receive and file only.
4. **Subdivision Map Act Violations** – Opportunity to Present Evidence to Legislative Body Per Government Code§ 66499.36 Prior to Recordation of Notice of Violation.

ADJOURNMENT

The Planning Commission will adjourn to its next regularly scheduled Planning Commission meeting on October 19, 2016.

MINUTES

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, August 3, 2016

CALL TO ORDER

Chairman Qualls called to order the Regular Meeting of the Planning Commission of the Town of Apple Valley for August 3, 2016 at 6:00 p.m.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Bruce Kallen, Commissioner Jason Lamoreaux, Commissioner B.R. "Bob" Tinsley, Vice-Chairman Mark Shoup and Chairman Doug Qualls. Absent: None

STAFF PRESENT

Carol Miller, Principal Planner, Pam Cupp, Associate Planner, Thomas Rice, Town Attorney, Jordan Ferguson, Town Attorney and Yvonne Rivera, Planning Commission Secretary.

PLEDGE OF ALLEGIANCE

Commissioner Lamoreaux led the Pledge of Allegiance.

1. APPROVAL OF MINUTES

Minutes for the Regular Meeting of June 15, 2016.

Chairman Qualls noted there is need to make a correction on Page 3 of the minutes for June 15, 2016 to read as follows:

Commissioner Lamoreaux commented on the digital signs and expressed concern regarding the separation distance.

Motion by Vice-Chairman Shoup, and seconded by Commissioner Lamoreaux, to approve the Minutes for the Regular Meeting of June 15, 2016, as amended.

Motion carried by the following vote: Ayes: Commissioner Kallen, Commissioner Lamoreaux, Vice-Chairman Shoup and Chairman Qualls. Noes: None. Absent: None. Abstain: Commissioner Tinsley

PUBLIC HEARING ITEMS

- 2. Conditional Use Permit No. 2016-001.** This is a request for approval to construct improvements necessary for the long-term maintenance and security of a recently completed groundwater production well. Improvements will include two (2) buildings, a perimeter block wall and landscaping.

Applicant: Mr. Greg Miles, representing Liberty Utilities

Location: 12691 Apple Valley Road; APN 3087-161-02

Chairman Qualls opened the public hearing at 6:06 p.m.

Commissioner Lamoreaux recused himself, due to a possible conflict, and left the dais at 6:07 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division.

Ms. Cupp answered questions by the Planning Commission regarding the decorative block wall.

Mr. Greg Miles, Liberty Utilities, commented on the proposed work. He also stated there would be measures in place to regulate the noise levels.

Commissioner Tinsley asked questions regarding the decorative block wall.

Chairman Qualls asked the Applicant if he agreed to the Conditions of Approval.

Mr. Miles, Applicant, stated he agreed with the Conditions of Approval.

PUBLIC COMMENTS:

None.

Chairman Qualls closed the public hearing at 6:14 p.m.

MOTION

Motion by Vice-Chairman Shoup, seconded by Commissioner Tinsley that the Planning Commission move to:

1. Find that, pursuant to the California Environmental Act (CEQA), Section 15332, Class 32, the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve Conditional Use Permit No. 2016-001, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

ROLL CALL VOTE

Ayes: Commissioner Kallen
 Commissioner Lamoreaux
 Commissioner Tinsley
 Vice-Chairman Shoup
 Chairman Qualls

Noes: None
Abstain: None
Absent: None

The motion carried by a 5-0-0-0 vote.

Commissioner Lamoreaux returned to the dais at 6:14 p.m.

- 3. Development Code Amendment No. 2016-003.** A request Amend the Town Municipal Code to Repeal Provisions Regulating and Referring to Sex Offender Residency.
Applicant: Town of Apple Valley
Location: Town-wide

Chairman Qualls opened the public hearing at 6:15 p.m.

Thomas Rice, Town Attorney, presented the staff report as filed with the Planning Division.

Mr. Rice responded to questions by the Planning Commission regarding the lawsuit. He commented on some of the challenges made against the current regulations.

Chairman Qualls requested to know if any of the other jurisdictions have prevailed by increasing their restrictions over and above state law.

It was the consensus of the Planning Commission to move forward with staff's recommendation to approve Planning Commission Resolution No. 2016-007, to amend various sections of Town's Municipal Code.

PUBLIC COMMENT

None.

Chairman Qualls closed the public hearing at 6:22 p.m.

MOTION

Motion by Commissioner Tinsley, seconded by Vice-Chairman Shoup that the Planning Commission move to:

1. Approve Planning Commission Resolution No. 2016-007, forwarding a recommendation that the Town Council amend Title 9 "Development Code" of the Town of Apple Valley Municipal Code as outlined within the staff report.

ROLL CALL VOTE

Ayes: Commissioner Kallen
Commissioner Lamoreaux
Commissioner Tinsley
Vice-Chairman Shoup
Chairman Qualls
Noes: None
Abstain: None
Absent: None

The motion carried by a 5-0-0-0 vote.

- 4. Development Code Amendment No. 2016-002.** A request to amend the Town Municipal Code to add Section 9.36.230 Prohibiting Cannabis Dispensaries, Cannabis Manufacturers, and the Cultivation and Delivery of Cannabis and to remove redundancies in the Apple Valley Municipal Code.

Applicant: Town of Apple Valley

Location: Town-wide

Chairman Qualls opened the public hearing at 6:24 p.m.

Jordan Ferguson, Town Attorney, presented the staff report as filed with the Planning Division. He also commented on the restrictions as outlined in the Ordinance.

Commissioner Kallen would like staff to prepare a comparison with other jurisdictions throughout California, to show what they are doing.

Mr. Ferguson indicated that the proposed ordinance is consistent with ordinances prepared for their clients throughout California.

Vice-Chairman Shoup read into the record, a summary of Section 7 of the Initiative as it relates to allowing cities and counties to impose a tax up to 10%.

Discussion ensued regarding setting up an ordinance that would authorize commercial distribution of marijuana with a tax.

Mr. Ferguson clarified that while the Town is allowed to put a measure on the ballot, the deadline is August 12, 2016; therefore, it should be considered for a future ballot where Council Members are elected.

Chairman Qualls requested to know if the proposed ordinance is the most restrictive approach the Town can take. He also asked a series of questions regarding Proposition 64 and the Adult Use of Marijuana Act (AUMA) that is on the November ballot.

Lengthy discussion ensued regarding the regulation of the indoor cultivating permit that would be required should Proposition 64 pass in November.

Mr. Thomas Rice, Town Attorney, informed the Planning Commission that a future item to discuss the requirement of an indoor cultivating permit would come back to the Planning Commission, should Proposition 64 pass in November.

PUBLIC COMMENT

John Laraway, Apple Valley, expressed concern regarding the Town requiring a permit in an effort to regulate marijuana. He believes that if the state does not require a permit, neither should the Town.

Chairman Qualls closed the public hearing at 6:53 p.m.

PLANNING COMMISSION COMMENTS:

Vice-Chairman Shoup stated he is in support of Proposition 64; however, he expressed concern regarding the proposed regulations. He would like staff to come back to the Planning Commission with an ordinance to allow for the use of marijuana and allow the citizens some freedom.

Chairman Qualls spoke in support of the ordinance; however, he explained the reasons why he believed the Town has a responsibility in attempting to permit from a safety aspect. Lengthy discussion ensued regarding the need to regulate the use of marijuana within Town limits.

Ms. Carol Miller, Principal Planner, clarified that a Home Occupancy Permit does not allow for retail sales out of your home.

MOTION

Motion by Commissioner Lamoreaux, seconded by Commissioner Tinsley that the Planning Commission move to:

1. Approve Planning Commission Resolution No. 2016-006, forwarding a recommendation that the Town Council amend Title 9 “Development Code” of the Town of Apple Valley Municipal Code as outlined within the staff report.

ROLL CALL VOTE

Ayes:	Commissioner Kallen Commissioner Lamoreaux Commissioner Tinsley Chairman Qualls
Noes:	Vice-Chairman Shoup
Abstain:	None
Absent:	None

The motion carried by a 4-1-0-0 vote.

OTHER BUSINESS:

5. Action on Subdivision Map Act Violations

For the Planning Commission to:

1. Provide an opportunity for Property Owners to present evidence to the Planning Commission per Government Code Section 66499.36;
2. As appropriate, provide direction to Staff to record Notices of Violation.

Applicant: Town of Apple Valley Engineering Department
Location: Multiple locations as Identified in the Staff Report

Brad Miller, Town Engineering, presented the staff report as filed with the Planning Division. He noted that the Notice of Intention provides the property owner an opportunity to contest the notice of violation and present evidence that supports why the notice of violation should not be recorded.

Mr. Miller responded to questions by the Planning Commission regarding whether or not the homeowners were properly noticed.

Commissioner Kallen recommended that in the future, the Notices specify each issue related to the each property.

MOTION

Motion by Chairman Qualls, seconded by Commissioner Kallen that the Planning Commission move to:

1. Provide direction to staff to record the Notices of Violation against the properties.

ROLL CALL VOTE

Ayes: Commissioner Kallen
Commissioner Lamoreaux
Commissioner Tinsley
Vice-Chairman Shoup
Chairman Qualls
Noes: None
Abstain: None
Absent: None

The motion carried by a 5-0-0-0 vote.

PUBLIC COMMENTS:

None.

PLANNING COMMISSION COMMENTS

None.

STAFF COMMENTS

None.

OTHER BUSINESS

None.

ADJOURNMENT

Motion by Commissioner Tinsley, seconded by Commissioner Kallen, and unanimously carried to adjourn the meeting of the Planning Commission at 7:19 p.m. to the Regular Meeting on August 17, 2016.

Respectfully Submitted by:

Yvonne Rivera
Planning Commission Secretary

Approved by:

Chairman Doug Qualls



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TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE: September 21, 2016 (Continued from August 17, 2016)

CASE NUMBER: Tentative Tract Map No. 17271, Extension of Time No. 1

APPLICANT: Mr. Beau Cooper, representing Tao & Kamana 43, LLC

PROPOSAL: This is a request for a time extension of a previously approved subdivision of (73) acres into forty-five (45) single-family lots and two (2) open space lots. The lots will range from 18,004 to 51,747 square feet in size. The project is located within the Single Family Residential (R-SF) and Open Space Conservation (OS-C) zoning designations.

LOCATION: The project site is located at the northern terminus of Tao Road, between Menahka Lane and Kasson Road and bounded to the north by the logical extension of Waalew Road; APN 0473-011-35.

ENVIRONMENTAL DETERMINATION: There is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project, and adopted by the Planning Commission on June 7, 2006. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.

CASE PLANNER: Ms. Pam Cupp, Associate Planner

RECOMMENDATION: Approval.

PROJECT SITE AND DESCRIPTION:

A. Project Size

The original project site consisted of a seventy-three (73)-acre parcel, which has been reduced to seventy (70) acres. The tentative tract map shows lot sizes between 18,004 and 51,747 square feet in size.

B. General Plan Designations

Project Site	-	Single-Family Residential (R-SF) and Open Space (O-S)
North	-	Specific Plan
South	-	Single-Family Residential (R-SF)
East	-	Single-Family Residential (R-SF)
West	-	Open Space (O-S)

C. Surrounding Zoning and Land Use

- Project Site - Single-Family Residential (R-SF) and Open Space Conservation (O-S), vacant
- North - Specific Plan (Bridle Path Estates), vacant
- South - Single-Family Residential (R-SF), single family residences
- East - Single-Family Residential (R-SF), single family residences
- West - Open Space (O-S), vacant

D. Site Characteristics

The subject site is surrounded by vacant lots and developed single-family residential lots. The property has a combination of generally flat terrain with large areas of hillsides greater than fifteen percent (15%) slope (Open Space Conservation {OS-C}) zoning designation at the western and eastern boundaries of the project site). Approximately forty-three (43) acres, or sixty percent (60%) of the project site, has slopes that exceed the fifteen percent (15%) grade and are designated as OS-C. The property contains desert vegetation, scattered Joshua Trees, and rock outcroppings on site. The properties to the east contains developed and partially developed lots for single-family residential homes under recorded Tract Map No. 15286. To the west is vacant property zoned Single-Family Residential (R-SF) and Open Space Conservation (OS-C). The properties to the south are zoned Single-Family Residential (R-SF) and are currently developed with detached single-family homes. The property to the north is the site of Bridle Path Estates Specific Plan and planned for the future development of single-family homes.

ANALYSIS:

A. Background

The Planning Commission approved Tentative Tract Map No. 17271 on June 7, 2006 with an expiration date of June 6, 2009. In accordance with the Town of Apple Valley Development Code, tentative maps may be extended for one (1) year up to a maximum of three (3) years following the initial three (3) year approval in which to record the map. The map was eligible for four (4) legislative time extensions (SB 11854; AB 3333; AB 208 and AB 116), that collectively, extended this expiration date by an additional seven (7) years to June 6, 2016. In accordance with the Town of Apple Valley Development Code and in compliance Section 66452(e) of the Subdivision Map Act, the applicant is now requesting a three (3) year extension of time. Unless extended through additional legislative actions, this is the final map extension.

The expiration date for this map was June 7, 2016; however, the applicant did not submit for this Time Extension until June 27, 2016. Based upon Subdivision Map Act Section 66452.6(f)(1) which addresses moratoriums, the applicant believes that Condition of Approval P15 created an unbuildable subdivision. The original approval letter contained a typographical error that referenced the maximum permitted slope at 5:1 instead of the 1.5:1 maximum slope that was approved by the Planning Commission. The applicant contends that Condition P15 as written (referencing 5:1 slopes rather than 1.5:1) made the project unbuildable. Prior to the purchase of the land, the applicant's due diligence period started on October 14, 2013 and the Condition was ultimately corrected by the Town on December 5, 2013. This total time frame was 53 days. Therefore, it could be viewed that this "tolling period" gave the tentative map an extra 53 days past June 7, 2016 to July 29th, 2016. The Town Attorney has thoroughly reviewed the applicant's interpretation and believes to be a valid argument and worthy Planning Commission discussion and consideration.

During the initial public hearing for Tentative Tract Map No. 17271, issues raised for discussion included drainage issues; encroachments into the sloped areas designated Open Space Conservation (OS-C); the Hillside Subdivision Ordinance and the need to combine certain lots to create larger parcels. Ultimately, Lot Nos. 1 and 2 were conditioned to be combined and the applicant was awarded a maximum slope ratio of 1.5 to 1 instead of the 2:1 slope ratio that was recommended by staff. In 2008 Lot Nos. 1 and 2, together with a parcel to the south, were the subject of a lot line adjustment. Lots 1 and 2 were ultimately sold and are no longer a part of this proposed subdivision.

B. General

The Extension of Time process affords the Town an opportunity to review subdivisions for compliance with current site development standards. There have been changes to the Development Code that may affect this tentative map. On May 11, 2010, Ordinance 407 was adopted by the Town Council that modified the Development Code to include criteria outlined within Town Council Resolution 2000-50, which addresses storm water runoff. Ordinance 407 modified Development Code Section 9.28.100 to add provisions relating to the maximum slope and depth of retention basin as follows:

"(G) Retention/detention basins less than one (1) acre in size shall not be greater than four (4) feet in depth, unless otherwise approved by the Planning Commission under a Development Permit or other applicable land entitlement."

"(J) The maximum slope within any retention/detention basins shall be 4:1."

There was no discussion within the original staff report regarding the slope or depth of the detention basins. All of the detention basins proposed show slopes of 2:1 exceeding the maximum slope of 4:1. The detention basin shown for Lot "C" shows a maximum depth of eight (8) feet, which also exceeds the maximum depth of four (4) for a lot less than one (1) acre in size. While it may result in a map adjustment, staff is recommending Condition of Approval No. P22 requiring compliance with the maximum slope of 4:1 for the detention basins. Condition of Approval No. P23 has also been included that would require the detention basins to maintain a maximum depth of four (4) feet on lots less than one (1) acre in size; however, the Commission has the authorization to remove the requirement under this land entitlement process,

The site development standards have changed since the maps initial approval of June 7, 2006. The proposed subdivision remains compliant with the current site development standards for the Residential Single Family (R-SF) zoning designation are as follows:

SITE DEVELOPMENT STANDARDS	R-SF
Minimum lot area	18,000 sf
Minimum corner lot area	20,000 sf
Minimum lot width in feet, as measured from the minimum front setback of 30 ft.	100
Minimum corner lot width in feet as measured from the minimum front setback of 30 ft.	115
Minimum lot depth (ft)	150
Minimum corner lot depth (ft)	150

SITE DEVELOPMENT STANDARDS	R-SF
Minimum site frontage (ft) The frontage of a nonrectangular lot or lot located on a cul-de-sac, curved street or dead-end street with a curved turn-around shall be measured as the chord drawn between the terminuses of the side property lines at their intersection with the street right-of-way.	60
Minimum front setback (ft) <i>(Modified from 40 ft by Ord. 407 adopted 5/22/2007)</i>	30
Average front setback (ft) <i>(Modified from 45 ft by Ord. 407 adopted 5/22/2007)</i>	35

The Commission should first consider the validity of this time extension and determine whether or not the applicant has a valid argument to allow for the time extension. If circumstances, conditions and requirements have changed sufficiently to warrant new conditions (such as slope and depth requirements for the detention basins), and the applicant will not agree to those new conditions, the Commission has the authority and responsibility to deny the Time Extension, citing the fact(s) that the Tentative Map would not be consistent with the requirements applicable today. In addition to the newly recommended Conditions of Approval discussed within this report, staff is recommending Conditions of Approval necessary for consistency with Town’s Standard Conditions of Approval. For the Commission’s convenience, staff has included the original Conditions of Approval with recommended modifications in ~~strikeout~~ (deletions) and underline (additions).

- C. Environmental Assessment
 There is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project, and adopted by the Planning Commission on June 7, 2006. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.

- D. Noticing:
 The request was legally noticed in the local newspaper and property owners within 700 feet were notified by mail on August 5, 2016. Staff received two (2) telephone calls from adjacent property owners with concerns relating to drainage and the potential for mass grading and not following through with construction. One caller, Mr. Fred Stearn, followed up written correspondence, which is attached for the Commission’s consideration.

- E. Findings:
 In considering any Tentative Tract Map, the Commission is required by the Development Code to make specific Findings. The following are the Findings for a Tentative Tract Map required under Section 9.71.040 (A5) of the Development Code and a comment to address each:

1. The proposed Subdivision, together with the provisions for its design and improvement, is consistent with the General Plan and any applicable Specific Plan. The proposed subdivision or land use is compatible with the objectives, policies, general land uses and programs specified in the General Plan and any applicable Specific Plan (Subdivision Map Act 66473.5).

Comment: The subject property has General Plan land use designations of Single-Family Residential (R-SF) and Open Space Conservation (OS-C), and by size, shape and configuration has the ability to be used, with the Planning Commission's slope interpretation, in a manner consistent with the General Plan Land Use Element and Zoning designations. The project is a proposal to subdivide the properties into forty-one (41) single-family lots and, with adherence to staff recommended conditions, will meet the minimum requirements for lot size, width and depth as prescribed by the Code.

2. The Planning Commission has considered the effects of its action upon the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Subdivision Map Act Section 66412.3).

Comment: The proposal consists of a land subdivision located on residentially designated land and open space for the purpose of future residential development. No houses are being removed and housing needs will not be negatively impacted.

3. The design of the subdivision provides, to the extent feasible, for the future passive or natural heating or cooling opportunities in the subdivision.

Comment: The lots created under this subdivision within the Single-Family Residential (R-SF) zoning designation section only are appropriate in size to provide natural heating and cooling opportunities for development of the site. However, as development occurs, the individual lots are subject to the implementation of natural heating and cooling requirements pursuant to Title 24 energy requirements.

4. The Planning Commission shall determine whether the discharge of waste from the proposed subdivision into the existing sewer system would result in a violation of the requirements as set forth in Section 13000 et seq., of the California Water Code. If the Planning Commission finds that the proposed waste discharge would result in or add to a violation of said requirements; the Planning Commission may disapprove the subdivision (Subdivision Map Act Section 66474.6).

Comment: The project is a residential land subdivision and is required to connect to the Town of Apple Valley sewer system and requires approval of the Town of Apple Valley Public Works Division in order to meet the requirements of the Town.

F. Hillside Subdivision Findings

No hillside subdivision shall be approved unless the Planning Commission or other reviewing authority makes all of the following findings:

- 1. The natural topographic features of the hills and knolls surrounding the Town have been respected and protected. Significant natural landmarks and other outstanding features such as rock outcroppings have been retained in their natural state.

Comment: The proposal consists of a land subdivision located on residentially designated land and open space for the purpose of future residential development. The site is approximately seventy-three (70)-acres in size with forty-one (41) acres of hillsides and rock outcroppings that will be retained in their natural state.

- 2. All development within the subdivision has been kept from natural slope areas of fifteen (15) percent or greater except as specifically authorized by the Town of Apple Valley Development Code.

Comment: The proposal consists of a land subdivision with portions of natural slope areas of fifteen (15) percent or greater. However, lots that consist of fifteen (15) percent or greater slopes are shown with one (1) acre lots or greater in size in conformance with the Hillside Subdivision Ordinance.

- 3. The overall density or intensity of land usage in all land use districts within the subdivision generally decrease as the slope increases.

Comment: The proposal consists of a seventy-three (73) acre land subdivision located on residentially designated land and open space with a density of 1.5 dwelling units per acre on the thirty (30) acres of Residential Single-Family (R-SF) zoned property for the purpose of future residential development. The forty-three (43) acres of Open Space Conservation (O-SC) is proposed with hillsides and rock outcroppings retained in their natural state.

- 4. The views of the hills and knolls from the valley floor and the viewshed from the hills and knolls to the surrounding area has been adequately respected and maintained.

Comment: The proposal consists of a land subdivision located on residentially designated land and open space for the purpose of future residential development. The forty-three (43) acres of open space is proposed to be retained in its natural state and will not impact views from the valley floor and viewsheds will be respected and maintained for the hills and knolls to the surrounding area.

- 5. Grading has been kept to an absolute minimum in order to maintain the natural character of the hillsides. Unavoidable grading complements natural land forms and natural drainage courses have been preserved.

Comment: The preliminary grading plan and supplemental attachments of Disturbed Average Natural Slope (DANS) areas show the length and interval of existing contours and appears that the disturbed areas would be less than twenty percent (20%) and, therefore, the

lots may be created at a minimum of one (1)-acre in size, in conformance with the Hillside Ordinance.

6. Mass grading of large pads and excessive terracing has been avoided in residential developments and minimized in commercial and industrial developments.

Comment: The proposal consists of a land subdivision located on residentially designated land and open space for the purpose of future residential development. The project contains conditions of approval that will require all on-site cut and fill slopes to be limited to a maximum slope ratio of 1:5 to 1 and a maximum vertical height of thirty (30) feet; setbacks from top and bottom of slopes shall be a minimum of one-half the slope height; slopes shall be contour graded to blend with existing natural contours; and, slopes shall be a part of the downhill lot when within or between individual lots.

7. Proposed development plans have utilized varying setbacks and heights for buildings, building techniques, building forms and materials which adequately ensure the compatibility of structures with the surrounding terrain.

Comment: The proposal consists of a land subdivision located on residentially designated land and open space for the purpose of future residential development. A separate Development Permit, approved by the Planning Commission, is required prior to new single-family residential construction which will include a Development Plan consisting of plot plans, a minimum of four floor plans and building elevations, demonstrating a variety of heights, setbacks, roof shapes and trim to create visually pleasing aesthetics within a cohesive design.

8. The street and circulation design respects the natural contours of the land, minimizes grading requirements and minimizes the percentage of land devoted to streets.

Comments: The proposal consists of a seventy-three (71)-acre land subdivision located on residentially designated land and open space with a density of 1.5 dwelling units per acre on the thirty (30) acres of Residential Single-Family (R-SF) zoned property for the purpose of future residential development. The site contains a natural drainage course (blue line stream) along the rear of Lot Nos. 13 through 18. The overall map is designed so this drainage course will not be obstructed and will provide for downstream storm water conveyance. The proposed lots, within the R-SF zoning designation, meet the minimum site development standards as identified in the Development Code. In addition, the lot design conforms to the parcel size and configuration of the existing single-family development, previously approved Tract Map Nos. 5770 and 7972, located to the south of the project site.

9. Altered slopes will be re-landscaped with plants that are compatible with the project's soils, terrain and micro-climate, reduce the risk of fire, and are compatible with requirements for water conservation.

Comment: The proposal consists of a land subdivision located on residentially designated land and open space for the purpose of future residential development. The project contains conditions of approval that will require all slopes over three (3) feet in height to be landscaped and irrigated according to Town standards.

RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Determine that, there is no new substantial change in the project or new information that would result in new, significant environmental impacts beyond those identified within the Mitigated Negative Declaration that was prepared for this project, and adopted by the Planning Commission on June 7, 2006. Therefore, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15162, the proposed request is not subject to further environmental review.
2. Find that the facts presented in the staff report support the required Findings for approval and adopt the Findings.
3. Approve a three (3)-year extension of time for Tentative Tract Map No.17271, subject to the attached, Conditions of Approval, as amended.
4. Direct Staff to file the Notice of Determination

Prepared By:

Reviewed By:

Pam Cupp
Associate Planner

Carol Miller
Principal Planner

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Tract Map
3. Zoning Map
4. Comment Letter

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL

Tentative Tract Map No. 17271, Extension of Time No. 1

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

Planning Division Conditions of Approval

- P1. This tentative subdivision shall comply with the provisions of the State Subdivision Map Act and the Town Development Code. This tentative approval shall expire three (3) years from the date of approval by the Planning Commission/Town Council. ~~A time extension may be approved in accordance with the State Map Act and Town Ordinance, if an extension application is filed and the appropriate fees are paid thirty (30) days prior to the expiration date. Unless extended through California legislative action, this is the final map extension that may be approved.~~ The Tentative Tract Map becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town’s Development Code.
- P2. Prior to approval of the Final Map, the following agencies shall provide written verification to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:
 - Apple Valley Fire Protection District
 - ~~Apple Valley Ranchos Water Company~~ Liberty Utilities
 - Apple Valley Public Services Department
 - Apple Valley Engineering Division
 - Apple Valley Planning Division
 - U.S. Army Corp of Engineers
 - California Department of Fish and ~~Game~~ Wildlife
 - Regional Water Quality Control Board
- P3. Upon approval of the Tentative Tract Map No. 17271, the applicant shall be responsible for the payment of all CEQA mandated environmental review and filing fees to the Department of Fish and ~~Game~~ Wildlife and/or the San Bernardino County Clerk of the Board of Supervisors.
- P4. Approval of Tentative Tract Map No. 17271 by the Planning Commission is understood as acknowledgement of Conditions of Approval by the applicant, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P5. The applicant shall ~~agree to~~ defend at his sole expense (with attorneys approved by the Town), and indemnify the Town against any action brought against the Town, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the Town, its agents, officers or employees for any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of these obligations under this condition.

- P6. Prior to recordation, the applicant shall provide the Planning Division with a copy of the subdivision in an electronic format compatible with the Town's current technology.
- P7. All slopes over three (3) feet in height shall be landscaped and irrigated according to Town standards.
- P8. Any protected desert plants or Joshua trees impacted by development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code. Prior to the issuance of a Grading Permit, a study by a qualified Native Plant Expert shall be prepared to determine if the identified trees will be saved, located or removed, in compliance with the Town's Native Plant Protection Ordinance.
- P9. All lots shall have a minimum area of 18,000 square feet, except corner lots, which shall have a minimum area of 20,000 square feet. All lots shall have a minimum depth of 150 feet and a minimum width of one-hundred 100 feet, except corner lots which shall have a minimum depth of 150 feet and a minimum width of 115 feet. In addition, each lot on a cul-de-sac or on a curved street, where the side lot lines thereof are diverging from the front to rear of the lot, shall have a front lot width of not less than sixty (60) feet and a lot width of not less than 100 feet at the minimum building setback line of ~~forty (40)~~ thirty (30) feet.
- P10. A separate Development Permit, approved by the Planning Commission, is required prior to new single-family residential construction. The submittal shall include a Development Plan consisting of plot plans, a minimum of four (4) floor plans and twelve (12) building elevations, demonstrating a variety of heights, setbacks, roof shapes and trim to create visually pleasing aesthetics within a cohesive design.
- P11. Subdivision walls shall be constructed of slump stone, split face or masonry material, along the perimeter of the property lines. However, within hillside areas, wrought iron and/or tubular fencing may be constructed. Prior to recordation of the Final Map, the Developer/applicant shall submit detailed plans showing all proposed walls for this subdivision subject to approval by the Director of ~~Economic and Community Development~~ (or designee).
- P12. If the tract/parcel map is adjacent to existing development, a fence/wall plan shall be submitted with the grading and landscape/irrigation plans to identify how new fencing or walls will relate to any existing fences or walls located around the perimeter of the tract/parcel map. The developer shall be required to connect to the existing fencing/walls or collaborate with the adjacent property owners to provide new fencing/walls and remove the existing fence/wall, both options at the developer's expense. Double fencing shall be avoided and review and approval of the fencing/wall plan is required prior to issuance of grading permits.
- P13. The project shall incorporate sidewalks, which shall be shown on Engineered improvement plans, subject to approval by the Director of ~~Economic and Community Development~~ (or designee).
- P14. The project shall conform to the R-SF, Single Family Residential, development standards for front, side and rear yard-building setbacks. ~~as follows:~~
 - Front: _____ ~~40 feet minimum, 45 average~~
 - Street side: _____ ~~25 feet minimum~~
 - Interior side: _____ ~~15/10 feet minimum~~
 - Rear: _____ ~~25 feet minimum~~

- P15. A copy of the final grading plan shall be submitted to the Planning Division for review and approval.
- a. All on-site cut and fill slopes shall be limited to a maximum slope ratio not to exceed 1.5:1 ratio in the cut slope areas and a maximum vertical height of thirty (30) feet. Setbacks from top and bottom of slopes shall be a minimum of one-half the slope height, subject to a Geotechnical Report.
 - b. Slopes shall be contour graded to blend with existing natural contours.
 - c. Slopes shall be a part of the downhill lot when within or between individual lots.
- P16. The project shall also conform to the Open Space Conservation (OS-C) and the Hillside Ordinance development standards as identified in the Town of Apple Valley Development Code.
- P17. Prior to Final Map, the applicant shall provide an equestrian Lifeline Trail (west side) and a "Class I" Bike Path (east side) along Tao Road in addition to the eighty-eight (88)-foot wide right-of-way dedication.
- P18. The applicant/developer shall install the landscaping along the perimeter of the development and within the retention/detention basins. The applicant/developer shall form a Home Owners Association (HOA) or Conservation Group to maintain the Open Space areas of the development, subject to review by the Town Attorney.
- P19. ~~The map shall be revised to show combined Lot Nos. 1 and 2 and not extending Menahka Lane. Lot Nos 1 and 2 are no longer a part of Tentative Tract Map No. 17271.~~
- P20. Prior to grading of the site, a current biological survey for animal and plant species of special concern (within 30 days) shall be completed and submitted to the Planning Division. A pre-construction survey is required to ensure that special status species have not moved onto the site since the date of the initial biological survey conducted on February 10, 2005, in conformance with the adopted Mitigation Monitoring and Reporting Program.
- P21. During grading of any phase of the project, the site shall be monitored to ensure that the presence of any sensitive or special status animal species is not evident. A pre-construction survey shall be conducted prior to land clearing to ensure the special status species (Desert Tortoise, Mohave ground squirrel, burrowing owl, sharp-shinned hawk and loggerhead shrike) have not moved on to the site since the February 10, 2005 date of the Biological Survey. In the event evidence of special status species are present, appropriate permits shall be obtained from the U.S. Fish and Wildlife Service and California Department of Fish and Game Wildlife
- P22. The maximum slope for any retention/detention basin is 4:1 (25%).
- P23. Retention/Detention basins may not exceed a maximum depth of four (4) feet on lots less than one (1) acre in size.
- P24. If buried cultural materials are discovered during construction, all work in that area shall be halted or diverted until a qualified archaeologist can evaluate the nature and significance of the finds, in conformance with the adopted Mitigation Monitoring and Reporting Program.
- P25. Prior to any ground disturbing activity, based upon the delineated streambed within the project site, permits may be required by the U.S. Army Corp of Engineers (Nationwide).

California Department of Fish and Wildlife (1602) or the Regional Water Quality Control Certification (401), in conformance with the adopted Mitigation Monitoring and Reporting Program.

- P26. All residential structures adjacent to Tao Road are required to be set back sixty-nine (69) feet from the center line of the Tao Road right-of-way, in conformance with the adopted Mitigation Monitoring and Reporting Program.

Equestrian Advisory Committee Conditions of Approval

- EAC1. ~~The north side of Kamana Road shall be dedicated and developed as a Lifeline Trail, as indicated on the tract map.~~ (Kamana no longer a Lifeline at this location.)
- EAC2. The west side of Tao Road shall be dedicated and developed as a Lifeline Trail.
- EAC3. All trails shall be developed in conformance with the Multi-Use and Equestrian Trails Standards and adopted Figure C-6 at time of recordation.

Park and Recreation Department Conditions of Approval

- PR1. Prior to issuance of any building permit, the applicant shall pay the applicable Quimby Fees as adopted by the Town Council.

Engineering Division Conditions of Approval

- EC1. A final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider reducing the post-development site-developed flow to 90 percent of the pre-development flow for a 100 year design storm. (Town Resolution 2000-50; Development Code 9.28.050.C, 9.28.100)
- EC2. Street improvement plans shall be submitted to the Town Engineer for review and approval.
- EC3. All drainage easements, brow ditches, swales, etc. shall be submitted to the Town Engineer for review and approval.
- EC4. All interior streets shall be improved to Town standards as approved by the Town Engineer. Minimum width of local residential streets shall be 36 feet curb to curb.
- EC5. Minimum right of way dedication for interior residential streets shall be 60 feet full width. Minimum right of way dedication width for cul-de-sacs shall be 50 feet full width.
- EC6. All streets abutting the development shall be improved a minimum half-width of 28 feet with curb, gutter and sidewalk on the development side.
- EC7. Kamana Road adjacent to the property shall be improved to the Town's half-width Local Street standards.
- EC8. Tao Road from Kamana Road to the north tract boundary shall be improved to the Town's full-width Secondary Road standards.
- EC9. Tao Road shall be rehabilitated to the satisfaction of the Town Engineer from Corwin Road to the Tract Boundary. An In-lieu fee of \$80,000 shall be required prior to final map approval for the rehabilitation of Tao Road.
- EC10. A 30-foot wide half-width road dedication along Kamana Road adjacent to the property shall be granted to the Town of Apple Valley.

- EC11. A Tract or Parcel Map shall provide at least two (2) different standard routes of ingress and egress. A standard route is a road dedicated to the Town and paved to Town standards. (Development Code Section 9.71.020.C.6) Minimum pavement width shall be 28 feet; minimum asphalt thickness shall be 0.33 feet.
- EC12. During the grading of the streets, soils testing of the street subgrades by a qualified soils engineering firm shall be performed to determine appropriate structural street section. Minimum asphalt concrete thickness for all streets shall be 0.33 ft.
- EC13. All required improvements shall be constructed and approved or bonded in accordance with Town Development Code.
- EC14. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.
- EC15. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the Town.
- EC16. A final grading plan shall be approved by the Town Engineer prior to issuance of a grading permit. A grading permit shall not be issued until street improvement plans have been submitted to the Town Engineer for review and substantial completion of the street plans has been attained as determined by the Town Engineer.
- EC17. The developer shall form or annex into an assessment district to provide for the ongoing maintenance of the retention basin and accessory structures. (Town Council Resolution 2000-50)
- EC18. Street lights shall be required in accordance with Town standards. The developer shall form or annex into an assessment district to provide for the ongoing operation and maintenance of the street lights.
- EC19. All street names shall be approved by the Town and such approval shall be coordinated through the Town Engineer.
- EC20. The developer shall present evidence to the Town Engineer that he has made a reasonable effort to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
- EC21. Utility lines shall be placed underground in accordance with the requirements of the Town. (Municipal Code Section 14.28)
- EC22. The developer shall make a good faith effort to acquire the required off-site property interests. If the developer fails to acquire those interests the developer shall, at least 120 days prior to submittal of the final map for approval, enter into an agreement to complete the improvements pursuant to Government Code Section 66462 at such time as the Town acquires the property interests required for the improvements. Such agreement shall provide for payment by the developer of all costs incurred by Town to acquire the off-site property interests required in connection with the subdivision. Security for a portion of these costs shall be in the form of a cash deposit in the amount given in an appraisal report obtained by the developer, at the developer's cost. The appraiser shall have been approved by the Town prior to commencement of the appraisal. Additional security may be required as recommended by the Town Engineer and Town Attorney.

- EC23. Traffic impact fees adopted by the Town shall be paid by the developer.
- EC24. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.
- EC25. Any required street striping shall be thermoplastic as approved by the Town Engineer.
- EC26. The developer shall obtain and submit to the Planning Division prior to occupancy, the following signed statement by the purchasers of the homes located within the Landscape and Lighting Assessment district (subject to final approval by the Town Attorney): "In purchasing the home, I am aware that the home is located in the boundaries of a Landscape and Lighting Assessment District for the maintenance of drainage, landscaping, fencing and other similar improvements and that an annual landscaping maintenance charge will be levied.
- EC27. In the event that an applicant/developer chooses to seek Council approval of the Final Map prior to completion of the required improvements, an "Agreement for Construction of Improvements" shall be required. In accordance with the California Labor Code, any such Agreement will contain a statement advising the developer that certain types of improvements will constitute a public project as defined in California Labor Code, Sections 1720, and following, and shall be performed as a public work, including, without limitation, compliance with all prevailing wage requirements.

Building and Safety Division Conditions of Approval

- B1. An engineered grading report, including soils engineering and engineering geology, shall be filed with, and approved by, the Building Official prior to recordation of final map.
- B2. Grading and drainage plans are to be submitted to, and approved by, the Building Official prior to permit issuance.
- B3. Submit plans for approval and obtain all permits for all structures and walls.
- B4. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard, native plant protection and desert tortoise habitat.
- B5. A Notice of Intent (NOI) and a Storm Water Prevention Plan (SWPP) must be submitted to and approved by the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.
- B6. All cross lot drainage requires easements and may require improvements at the time of development.
- B7. Comply with State of California Disability Access requirements.
- B8. Check with the State of California water Resources Board to determine if a general construction activity storm water permit is required prior to any work beginning.
- B9. A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the building Inspector, General Contractor, Grading Contractor, soils technician and any other parties required to be present during the grading process such as a Biologist, Paleontologist.

Public Works Division Conditions of Approval

Prior to Map Recordation:

- PW.1 A sewer feasibility study is required to determine how public sewer collection can be provided by the Town of Apple Valley. Contact the Apple Valley Public Works Division (760-240-7000, ext. 7500) to determine procedure and costs associated with completing said study.
- PW2. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Division.
- PW3. Buy-in fees will be required prior to building permit/recordation. Contact the Public Works Division for costs associated with said fees.
- PW4. Sewer Connection fees required.
- PW5. Sewer development impact fees required.
- PW6. Submit mylars along with three (3) sets of approved plans upon completion of plan check. In addition, the plans must be provided in an electronic format of the Town's choosing. These requirements are the same for the approved plans and the As-Built plans.

Apple Valley Ranchos Water Company Conditions of Approval

- AVR1. Compliance with Rule #15 of the Public Utilities Commission must enter into main extension contract.
- AVR3 Water main must be extended to provide domestic and fire protection to this facility in accordance with Apple valley Fire protection District's conditions.
- AVR4. Dedicate public utility easements to Apple Valley Ranchos Water Company to connect, install, maintain and access pipeline (unobstructed vehicular access).
- AVR5. Each lot is subject to a facilities fee (which funds well development will be collected per meter that installed at a rate of \$669 per 5/8-inch meter equivalent).
- AVR6. Each lot is required to pay water rights. Amount of water rights needed is to be determined at time of construction.

Fire Protection District Conditions of Approval

- FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any Tentative Parcel Map, the owner shall contact the Fire District for verification of current fire protection development requirements.
- FD2. All new construction shall comply with applicable sections of the Uniform California Fire Code, Uniform California Building Code, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, or Apple Valley Fire Protection District.
- ~~FD3. All combustible vegetation, such as dead shrubbery and dry grasses shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery or similar plants, which are used as ground cover if they do not form a means of transmitting fire. California Public Resources Code Section 4291.~~

FD3. The development, and each phase thereof, shall have two points of paved access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located. This shall be completed prior to any combustible construction. ~~Apple Valley Fire Protection District, Ordinance 22, Section (I), Install per A.V.F.P.D. Standard ARI #8.~~

FD4. Fire lane shall be provided with a minimum width of twenty ~~four~~ six(2426)-feet, maintained and identified. ~~Apple Valley Fire Protection District Ordinance 44 52, Install per A.V.F.P.D. Standard Series #202.~~

FD5. A turnaround shall be required at the end of each roadway 150 feet or more in length and shall be approved by the Fire District. Cul-de-sac length shall not exceed ~~600~~ 1,000 feet.

~~Turning radius on all roads within the facility shall not be less than 22 feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Road grades shall not exceed twelve (12) percent unless approved by the Chief. ~~Uniform Fire Code, Section 902.2.2.3.~~ ~~Apple Valley Fire Protection District Ordinance 2252 Section 1 (e).~~ ~~Install per A.V.F.P.D. Standard ARI #202.~~~~

FD6. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

New dwelling addresses shall be posted with a minimum four (4)-inch numbers visible from the street, and during the hours of darkness the numbers shall be internally illuminated. Where building setbacks exceed seventy-five (75) feet from the roadway, additional contrasting four (4)-inch numbers shall be displayed at the property entrance.

FD7. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to, and approved by, the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems. ~~Apple Valley Fire Protection District. Ordinance 42.~~

A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.

B. System Standards:

Fire Flow 500 GPM @ 20 psi Residual Pressure on eight (8)-inch minimum water main size.

Duration 1 Hour

Hydrant Spacing: 660 Feet

~~*If blank, flow to be determined by calculation when additional construction information is received. Install per A.V.F.P.D. Standard Series #101.~~

~~C. A total of 6-7 fire hydrant(s) will be required. It is the responsibility of the owner/developer to provide all new fire hydrants with blue dot, reflective pavement markers set into street, and curb identification per A. V. F. P. D. Standards. Install per A.V.F.P.D. Standard Series #101.~~

- FD8. ~~An approved fire sprinkler system shall be installed throughout any building:~~
- ~~• 5,000 square feet or greater including garage, or~~
 - ~~• Other per California Building Code requirements. Apple Valley Fire Protection District Ordinance 41.~~

NFPA 13D (RESIDENTIAL AUTOMATIC FIRE SPRINKLER SYSTEM): REQUIRED

This residence shall be constructed with an automatic fire sprinkler system (NFPA 13D) throughout the structure, including garage. Plans shall be submitted by a licensed C-16 contractor to the Fire District for review and approval along with plan review fees. Fire Sprinkler work shall not commence until plan approval and a job card have been issued. An approved fire alarm system shall be installed that will provide a local alarm for water flow to be audible throughout the premises. **NOTE: The Fire District shall be notified a minimum of 24 hours prior to the desired final inspection date.**

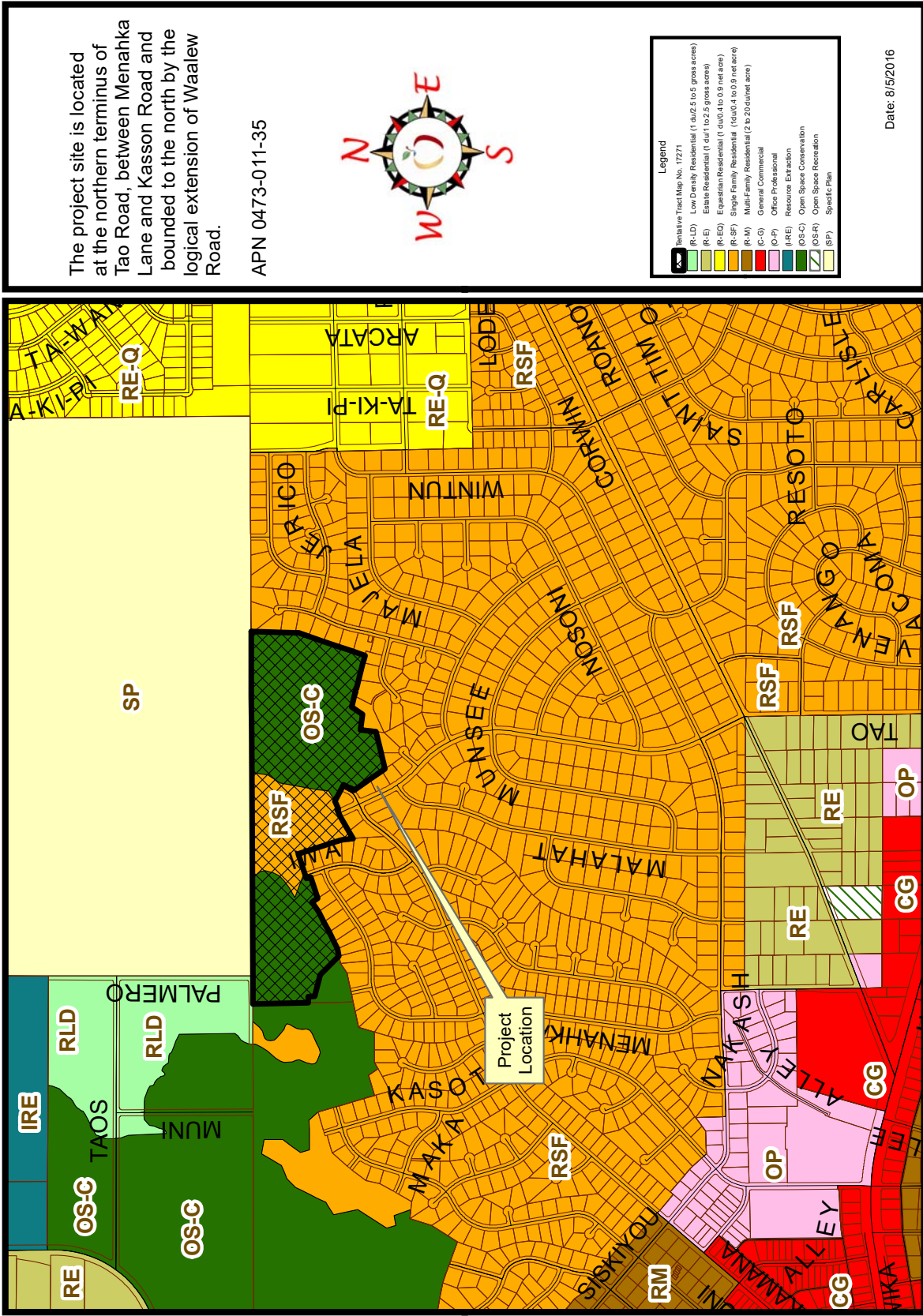
- FD9. A letter shall be furnished to the Fire District from the water purveyor stating that the required fire flow for the project can be met prior to the Formal Development Review Committee meeting.
- FD10. Apple Valley Fire Protection District Final Subdivision/Tract/Development fees shall be paid to the Fire District prior to final map acceptance according to the current Apple Valley Fire Protection District Fee Ordinance.
- FD11. The developer shall submit a map showing complete street names within the development, to be approved by the Fire District prior to final map.
- FD12. ~~Prior to subdivision final map approval along with a designated sponsoring agency (ie Town of Apple Valley, School District, Apple Valley Fire Protection District), the developer/owner shall either form or annex to a Mello Roos Community Facilities District for Apple Valley Fire Protection District in order to provide, operate and maintain fire protection facilities and to provide fire protection services. All "up front" costs associated with the formation of such district, or annexation to such a district shall be borne by the developer/owner.~~

A Knox Box Rapid Entry System shall be required at all gated ingress/egress points within this project.

End of Conditions

Tentative Tract Map No. 17271
 Extension of Time No. 1

ZONING/LOCATION MAP



The project site is located at the northern terminus of Tao Road, between Menahka Lane and Kasson Road and bounded to the north by the logical extension of Waalew Road.

APN 0473-011-35



Legend

(R-LD)	Low Density Residential (1 du/2.5 to 5 gross acres)
(R-E)	Estate Residential (1 du/4 to 2.5 gross acres)
(R-ED)	Equestrian Residential (1 du/0.4 to 0.9 net acre)
(R-SF)	Single Family Residential (1 du/0.4 to 0.9 net acre)
(R-M)	Multi-Family Residential (2 to 20 duplex acre)
(C-G)	General Commercial
(C-P)	Office Professional
(IRE)	Resource Extraction
(OS-C)	Open Space Conservation
(OSR)	Open Space Recreation
(SP)	Special Plan

Date: 8/5/2016

RECEIVED

AUG - 9 2016

Community Development

August 4, 2016

Ms. Pam Cupp, Associate Planner
Planning Department
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307

SUBJECT: EXTENSION OF TENTATIVE TRACT MAP NO. 17271, APN 0473-011-35

Dear Ms. Cupp:


Re the above tentative map approval extension request, I have not seen the original conditions of approval, but as the owner of the last house on Iwa Rd at Menahka Rd, I would like to bring your attention to the large amount of rain water that flows off the hills to immediate north of a row of houses on Menahka Road. My home is at 16832 Menahka Rd.

If there is any disturbance of that natural flow, increasing it in one direction or another, it could increase flooding to one or more of the adjacent Menahka Rd homes. Hopefully this has been addressed in the original conditions of approval.

I have noticed that two homes have been built in north Apple Valley which seem to violate the language protecting ridgelines from development. Hopefully no homes are contemplated/approved on the ridgelines just north of Menahka Road.

Thank you for your interest in professional land use planning.

Sincerely,


Fred Stearn
POB 356
Newberry Springs, CA
92365
760-257-3560



TOWN OF APPLE VALLEY MEMORANDUM

Get a Slice of the Apple.

TO: Planning Commission
FROM: Carol Miller, Principal Planner
SUBJECT: Development Permit Annual Review
DATE: September 21, 2016

Attached is the annual review of Development Permits that have been administratively approved from August 1, 2015 through July 31, 2016.

This summary is for the Planning Commission's information only; no action is required. Staff is providing this information without the Conditions of Approval and associated site plans, per the Planning Commission's direction at the August 20, 2008 meeting. The annual review consists only of the attached spreadsheet. Should any Commissioner wish to review the supporting documentation, please let me know if a CD or hard copy is the preferred media.

Attachments: Development Permit Annual Review

DEVELOPMENT PERMIT ADMINISTRATIVE APPROVALS

8/1/2015 - 7/31/2016

B&S Status	Planning Approval Date	Project Address	Applicant	Case I.D.	Date Submitted	Project Description	Planner
Under construction	05/18/2016	18300 Hwy 18	St Mary Medical Center	DP 2015-006	10/27/2015	Construction of Medical Office Building	Fenn/Miller
Plan review #71223	05/18/2016	19445 Sitting Bull Rd	AV Unified School	DP 2016-003	05/05/2016	Construction of additional parking area and bus and student drop off area.	Miller
No activity as of 7/31/2016	Pending	13886 Central Rd	Bill Werner/Serrano Development	DP 2016-004	05/24/2016	Construction of a 22,700 square foot office building.	Cupp



Get a Slice of the Apple.

TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** September 21, 2016
- APPLICANT:** Town of Apple Valley Engineering Department
- PROPOSAL:** Action on Subdivision Map Act Violations
- For the Planning Commission to:
1. Provide an Opportunity for Property Owners to Present Evidence to the Planning Commission Per Government Code section 66499.36;
 2. As Appropriate, Provide Direction to Staff to Record Notices of Violation
- LOCATION:** Multiple Locations as Identified in the Staff Report
- ENVIRONMENTAL DETERMINATION:** Pursuant to Section 15061(b)(3) of the State Guidelines to implement the California Environmental Quality Act (CEQA), which states that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, the proposed Code Amendment, may have a significant effect on the environment, the activity is not subject to CEQA.
- RESPONSIBLE STAFF PERSON:** Brad Miller, Town Engineer
- RECOMMENDATION:** Provide an opportunity for any interested owners to present evidence regarding the Notice of Intention to Record Notice of Violations. Following presentation of evidence, provide direction to staff, as appropriate, to record Notices of Violation.

BACKGROUND

The Town of Apple Valley (“Town”) entered into multiple subdivision agreements with developers for subdivisions within the Town pursuant to the Subdivision Map Act, Government Code section 66410, *et seq.* (the “Map Act”). These agreements provided for a two-year period following recordation of the final tract map for completion of various improvements including, but not limited to, street improvements, landscaping, and monumentation. The agreements provided for extensions upon request. As part of entering into these agreements, developers submitted performance bonds as security for completion of the improvements under the agreements. As a result of the economic downturn, some of the subdivision projects have stalled, and the improvements were not completed within the specified timeframe. Certain developers did not request extensions under the subdivision agreements, even though they did not complete the improvements within the required timeframe. Any developers that did not complete the improvements as required, and that did not extend the term of their respective subdivision agreement, are in default under the Map Act and the Town considers these properties as illegally divided. Some of the properties are no longer owned by the same developer that entered into the original agreements.

One of the remedies the Map Act provides for real property that has been divided in violation of the Act is filing and recording a notice of violation against the offending property.

Pursuant to Government Code section 66499.36, whenever a local agency has knowledge that real property has been divided in violation of the Map Act or of local ordinances enacted pursuant to it, the local agency may mail by certified mail to the then-current owner of record of the property a notice of intention to record a notice of violation. The notice of intention must describe the real property in detail, name the owners thereof, and state that an opportunity will be given to the owner to present evidence (“Notice of Intention”). The Notice of Intention must specify a time, date, and place for a meeting at which the owner may present evidence to the legislative body supporting why the notice should not be recorded. The Notice of Intention must also contain a description of the violations and an explanation as to why the subject parcel is not lawful under subdivision (a) or (b) of Section 66412.6.

The purpose of filing a notice of violation against a property that is out of compliance is to place the property owner, as well as any potential purchasers or lenders, on notice of the incomplete improvements, and of the Map Act violations. The Town will not issue building permits or certificates of occupancy for these properties unless and until the violations are corrected.

Other than completion of the improvements, a violation may be corrected at this time if the property owner enters into a new subdivision agreement with the Town, and issues new bonds.

ANALYSIS

The Town Engineering Department identified the following properties as out of compliance with the Map Act for the general reasons described above:

<u>Tract/Parcel Map</u>	<u>Property Owner Name/Company ("Owner")</u>
17093	Sky Haven Ranch
17093-2	Sky Haven Ranch
17247	Hess Development

NOTICING

The Town mailed Notices of Intention to the Owners identified above in accordance with Government Code section 66499.36. The Notices of Intention are attached to this Staff Report and set forth in detail the alleged violations on each of the identified properties. The Notices of Intention identified the date and time of the Planning Commission meeting as September 21, 2016.

RECOMMENDATION

Provide the Owner an opportunity to contest the notice of violation and to present evidence to the Planning Commission as to why the notice of violation should not be recorded. If, after the Owner has presented evidence, the Planning Commission determines that there has been no violation, the Town will mail a clearance letter to the Owner. If, after the Owner has presented evidence, the Planning Commission determines that the property has in fact been illegally divided, the Town will record the notice of violation for record with the County Recorder's Office for the County of San Bernardino.

If the Owner does not appear to present evidence and/or if the Planning Commission determines that a property has been illegally divided after considering evidence presented by the Owner, staff recommends that the Planning Commission provide direction and authorize recordation of notices of violation against the violating property(ies).

Prepared By:

Brad Miller
Town Engineer



[INSERT ADDRESS]

**RE: NOTICE OF INTENTION TO RECORD NOTICE OF VIOLATION
WITH THE COUNTY RECORDER'S OFFICE FOR THE
COUNTY OF SAN BERNARDINO**

Dear _____:

In accordance with California Government Code section 66499.36, please TAKE NOTICE THAT:

1. The Town of Apple Valley ("Town") has knowledge that real property known as Subdivision No. **[INSERT NUMBER]** and more particularly described as **[INSERT DESCRIPTION OF SUBDIVISION'S LOCATION]** ("Property") has been divided in violation of the Subdivision Map Act at Government Code section 66410 et seq.
2. The owner(s) of record of the Property are as follows: **[INSERT NAMES OF ENTITY OR INDIVIDUAL OWNER(S)]** ("Owner").
3. The Town intends to record a Notice of Violation in accordance with California Government Code section 66499.36, based on the violation(s) further detailed herein. Prior to recording such notice, the Town will provide the Owner an opportunity to contest the Notice of Violation and to present evidence by filing a written objection to the recording of the Notice of Violation, as specified below.
4. A meeting with the Town and the Owner has been scheduled for **[INSERT DAY, MONTH DATE, YEAR]** at **[INSERT TIME]**. The meeting shall take place at **[INSERT SPECIFIC PLACE]** located at 14955 Dale Evans Parkway, Apple Valley, California 92307. The meeting will be held no sooner than thirty (30) and no later than sixty (60) days from the date of mailing of this Notice of Intention to Record Notice of Violation.
5. If within fifteen (15) days of receipt of this Notice of Intention to Record Notice of Violation the Owner fails to file with the Town a written objection to the recording of a Notice of Violation, the Town will file the Notice of Violation for record with the County Recorder's Office for the County of San Bernardino.
6. At the meeting described above, the Owner may present evidence to the

Town's legislative body or advisory agency as to why the Notice of Violation should not be recorded. If, after the Owner has presented evidence, the Town's legislative body or advisory agency determines that there has been no violation, the Town will mail a clearance letter to the then-current owner of record of the Property. If, after the Owner has presented evidence, the Town's legislative body or advisory agency determines that the Property has in fact been illegally divided, the Town will record the Notice of Violation for record with the County Recorder's Office for the County of San Bernardino.

7. The Owner may request a meeting with Town staff prior to the above specified meeting date to discuss the contents of this Notice of Violation, and options for remedying the violation(s).

Please TAKE FURTHER NOTICE THAT:

8. The violation(s) that have occurred at the Property are as follows: **[INSERT VIOLATION(S) SUCH AS FAILURE TO COMPLETE PUBLIC IMPROVEMENTS PURSUANT TO TERMS AND CONDITIONS IN SUBDIVISION IMPROVEMENT AGREEMENT]** ("Violation").

9. Government Code section 66412.6 provides that parcels created prior to March 4, 1972, as follows, are presumed to be lawfully created:

(a) For purposes of the Subdivision Map Act or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created and if at the time of the creation of the parcel, there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels; or

(b) For purposes of the Subdivision Map Act or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of the Subdivision Map Act or the local ordinance. Owners of parcels or units of land affected by the provisions of this subdivision (b) shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Government Code section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. For purposes of determining whether the parcel or unit of land complies with the provisions of the Subdivision Map Act and of local ordinances enacted pursuant thereto, as required pursuant to subdivision (a) of Government Code section 66499.35, the presumption declared in this subdivision (b) shall not be operative.

Neither of the above provisions apply to the Property because [INSERT EXPLANATION AS TO WHY THE ABOVE PROVISIONS DO NOT APPLY]. Since the above provisions do not apply, and as a result of the Violation, the Property is not lawful under the Subdivision Map Act.

10. The Town has authorized [REDACTED] to execute, acknowledge and record a Notice of Violation. Except as otherwise specified herein, the Notice of Violation will be recorded against the Property's title in the records of the County Recorder's Office for the County of San Bernardino and will not be removed until the Violation herein has been corrected and all associated fees, fines, penalties and/or costs have been paid.
11. This Notice of Intention to Record Notice of Violation has been mailed by certified mail to the then-current owner of record of the Property.

For questions concerning the Violation covered by this Notice of Intention to Record Notice of Violation, or to arrange a meeting with staff, please contact:

Diana Szarzynski
Administrative Assistant
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, California 92307
(760) 240-7000 ext. 7013

Sincerely,

Brad Miller
Town Engineer